

SDR-922-95-03
MTM-39010
3165.3 (922.HH)

January 26 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

Mr. John H. Benton)
Orbis Engineering, Incorporated) SDR No 922-95-03
1801 Broadway
Suite 1120
Denver, Colorado 80202

Request Denied

Orbis Engineering, Incorporated (Orbis) acting on behalf of Blackford Energy (Blackford) requested a State Director Review (SDR) (Enclosure 1), of two Notice of Incidents of Noncompliance (INC) from the Miles City District Office (MCDO) dated December 29, 1994 (Enclosure 2), assessing Blackford \$250 each for failure to comply with previously written INCs. The letter dated January 11, 1995, was considered timely filed on January 17, 1995, in accordance with 43 CFR 3165.3(b), and assigned number SDR-922-95-03.

On November 30, 1994, the MCDO inspected federal lease MTM39010 (wells #2-9 and #7-9). The well sign for #2-9 was not legible and the well sign for #7-9 does not show the current operator. The INC DH123-1 was issued for the noncompliance on well #2-9 and the INC DH123-2 was issued for the noncompliance on well #7-9. These INCs were received in Blackford's office on December 8, 1994, per the certified mail receipt. The MCDO required the corrective action to be completed within 10 days after receipt of notice; i.e., on or before December 18, 1994. A followup inspection performed by the MCDO on December 28, 1994, showed no corrective action had been taken. Photographs taken on November 11, 1994, and December 28, 1994 (Enclosure 3), show, on comparison, the old signs still in place and undisturbed. On December 29, 1994, the INC DH124-1 was issued assessing \$250.00 for failure to comply with the INC DH123-2; and, the INC DH124-2 was issued assessing \$250.00 for failure to comply with the INC DH123-1. The Orbis request asks that the assessments described above be waived.

Orbis states in the SDR that they hired Davis Roustabout Service (Davis) of Roundup, Montana, to place corrected well signs on wells #2-9 and #7-9, and that this work was completed during the week of December 4, 1994. They state that, "We can only assume that the signs were stolen or perhaps blown off the location prior to BLM's site inspection on December 28, 1994." Orbis enclosed with the SDR a copy of the invoice submitted to them by Davis (Enclosure 4). The invoice was prepared January 6, 1995.

The invoice indicates that Davis tried to install the signs on the locations on December 9, 1994; but the ground was frozen and they could not drive the steel posts to secure the signs. Thus, the signs were placed on location. Therefore, Orbis believed that the signs could have been stolen or blown off location.

A comparison of the photographs taken on November 11, 1994, and those taken on December 28, 1994, show that the old signs on the locations have not been disturbed in any manner between those dates. This is not the expected condition where a new sign has been placed on location. Usually, old signs are removed when new signs are placed on location in order to avoid the confusion of having conflicting information on display. It is not certain if new signs had been placed on these locations prior to December 28, 1994, as stated by Orbis. Therefore, the request for a waiver of the assessments is denied. For corrective action to be complete, Orbis should have removed the old signs and secured the new signs to ensure that they remained on location until a permanent attachment could be effected.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 5). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

/s/ Thomas P Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

5 Enclosures

- 1-Blackford SDR dated January 11, 1995 (1 p)
- 2-MCDO Assessment INCs dated December 29, 1995 (2 pp)
- 3-Copies of MCDO photographs (1 p)
- 4-Davis Roustabout Service invoice (1 p)
- 5-Form 1842-1 (1 p)

cc: (w/encls.)
DM, MCDO

bc: (w/o encls.)
WO-310, LS, Rm. 406
DM, Lewistown
AM, GFRA
DM, Dickinson
MSO (922)
AK SO
AR SO
CA SO
CO SO
ESO
ID SO
NV SO
NM SO
OR SO
UT SO
WY SO

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